

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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MICKEY CASS,

Plaintiff,

Case # 20-CV-6661-FPG

v.

DECISION AND ORDER

THE UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK, et al.,

Defendants.

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On February 14, 2023, the two remaining defendants—Joey Clinton and Brian Hembrook—moved to dismiss this action due to *pro se* Plaintiff Mickey Cass’s failure to cooperate in discovery. ECF No. 32. Magistrate Judge Marian W. Payson issued a briefing schedule, ECF No. 34, but Plaintiff did not file a response. On April 7, 2023, Judge Payson issued a Report & Recommendation (“R&R”) recommending that the motion be granted. ECF No. 35. Plaintiff did not file an objection to the R&R.

Generally, a court reviews portions of an R&R to which a party makes specific objections *de novo*. Fed. R. Civ. P. 72(b)(2); 28 U.S.C. § 636(b)(1)(C). When a party does not object to the R&R, however, the court will review it for clear error. *EEOC v. AZ Metro Distributors, LLC*, 272 F. Supp. 3d 336, 339 (E.D.N.Y. 2017). “When performing such a clear error review, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Boice v. M+W U.S., Inc.*, 130 F. Supp. 3d 677, 686 (N.D.N.Y. 2015) (internal quotation marks omitted). After conducting the appropriate review, the court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C).

The Court has reviewed Judge Payson's R&R for clear error and finds none. Accordingly, the Court ADOPTS Judge Payson's R&R (ECF No. 35) and GRANTS Defendants' motion to dismiss (ECF No. 32). Plaintiff's complaint is DISMISSED WITH PREJUDICE. The Clerk of Court is directed to enter judgment and close the case.

IT IS SO ORDERED.

Dated: May 3, 2023  
Rochester, New York



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HON. FRANK P. GERACI, JR.  
United States District Judge  
Western District of New York